## REMARKS

The present amendment and arguments address the Restriction Requirements presented by the Examiner. In view of the following remarks, reconsideration of the Restriction Requirements is respectfully requested. Applicants would like to thank the Examiner for the careful consideration given to this case. Claims 1-22 are pending in this application.

The Examiner alleges that the claims of the current application represent two patentably-distinct inventions – Group I (Claims 1-20) and Group II (Claims 21 and 22). To facilitate prosecution of the present application, Applicants provisionally select Group I with traverse. Accordingly, Claims 21 and 22 are withdrawn from consideration without prejudice to later presentation in this or related cases.

The Examiner further suggests that the application contains claims directed to five distinct species claimed in the application. To facilitate prosecution of the present application, Applicants provisionally elect Species iii, that is SEQ ID NO:3, for further consideration. Consistent with the Examiner's request, Species iii reads onto Claims 1-20. However, the Applicants traverse this restriction requirement for the reasons stated below.

The Examiner asserts that each of Claims 1-20 are generic. Thus, each of the claims that are in the Group I as defined by the Examiner are generic and none of the claims within Group I are directed to an individual species. Section 809.02(d) of the MPEP states that "where only generic claims are presented, no restriction can be required expect in those applications where the generic claims recite such a multiplicity of species that an unduly extensive and burdensome search is necessary." The present invention does not recite such a multiplicity of species so as to be burdensome to the Examiner.

The embodiments of the present invention among which the Applicants have been required to elect (*i.e.* SEQ ID NO:1-5) are each nine amino acids in length. A search for only these five embodiments would not be unduly extensive or burdensome. Indeed, the short length

and small number of the peptides would both facilitate the searching process. Additionally, all sequence information for these species was provided to the Examiner in computer readable format, as required, to further promote the search of the sequences.

In addition, while applicable to nucleotide sequences, the guidance of MPEP § 806.04 is illuminating in the present case. In relevant part, it states "to further aid the biotechnological industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 *et seq.* and permit a reasonable number of such nucleotide sequences to be claimed in a single application." The section further states "it has been determined that normally ten sequences constitute a reasonable number for examination purposes." Indeed, the simplicity of the claimed species and the spirit of the cited passage provide the Examiner with ample justification to reconsider and withdraw the restriction requirement among species in the present case.

In summary, restriction among presented species of the Group I claims (Claims 1-20) is improper as only generic claims are pending in the present application and an unduly extensive and burdensome search is not required to perform a search of the prior art. Therefore, reconsideration and withdrawal of the restriction requirement for selection among the disclosed species is respectfully requested.

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By _____
James G. Dilmore
Reg. No. P-51,618

Frederick H. Colen, Esq.
Reg. No. 28,061

REED SMITH LLP
P.O. Box 488
Pittsburgh, PA 15219-1886
(412) 288-3813

Agent for Applicants